IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4907 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PADAMAVATI D/O MULCHAND SHAH - Petitioner(s)

Versus

KIRAN INDRALAL SHAH & 2 - Respondent(s)

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Appearance :

MR DARSHAN M PARIKH for Petitioner(s) : 1,
MR MB GANDHI for Respondent(s) : 1,
MR PRAKASH K JANI for Respondent(s) : 2,
DS AFF.NOT FILED (R) for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 05/07/2006

ORAL JUDGMENT

1. Rule was issued by this Court on 9-7-1997 and certain orders were granted in favour of the petitioner. In short, the case of the petitioner

is that though Caveat was filed by the petitioner before the Cooperative Tribunal, the Cooperative Tribunal ignoring the Caveat had granted ex-parte interim relief without hearing the petitioner. Considering these averments of the petitioner, this Court had stayed the order passed by the Tribunal till further orders. This interim order has operated through out the pending of the petition since 1997. The Board of Nominees had initially not granted any interim relief in the matter against the petitioner and it was only subsequently that the Tribunal granted the interim injunction ignoring the Caveat filed by the petitioner. The situation therefore, has been that Court's order passed on 9-7-1997 has operated all along.

2. In facts of the present case, having heard learned advocates appearing for the parties, I find it appropriate that this situation should not change during the currency and till the conclusion of the proceedings before the Board of Nominees. On account of pendency of this

petition perhaps the Lavad Suit filed by respondent no.1 herein has remained pending. In that view of the matter, it would be appropriate that the Board of Nominees be permitted to proceed further and conclude the Lavad Suit and until such time same is done, the position obtaining on account of stay granted by this Court should continue. This can be achieved by setting aside the ex-parte injunction granted by the Tribunal in favour of respondent no.1 by order dated 30-6-1997.

3. The learned advocate for the petitioner clarified that till the proceedings are disposed of by the Board of nominees, the petitioner shall maintain status-quo.

4. In the result, impugned order dated 30-6-1997 passed by the Cooperative Tribunal is quashed. The Board of Nominees shall proceed further with the pending Lavad Suit. I have expressed no opinion on the rival contentions and the Board of Nominees shall decide the issues unmindful of

this order.

5. In the result, the petition is allowed to the above limited extent. Rule made absolute accordingly with no order as to costs.

(Akil Kureshi,J.)

(raghu)